

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5498**

**1. Opening of Meeting:**

The Appeals Board convened at 10:30 p.m., September 9, 2008 in Sacramento, with Acting Chair Fred Aguiar presiding.

<b>2. Roll Call: <u>Members</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>
Fred Aguiar, Acting Chair	x	
Ann Richardson	x	
Liz Figueroa	x	
Cindy Montañez	x	

**3. Approval of the Minutes:**

The August 12, 2008 minutes were approved by all members.

**4. Chair's Report:**

Acting Chair Aguiar introduced Mr. Steve Tyler who was sitting in the audience. Steve Tyler, ALJ II, from the Inland Office of Appeals will assume the Acting Chief ALJ position when the current Acting Chief ALJ for Field Operations, Bill Roehr, retires. Mr. Tyler stated he was looking forward to working with the Board. Acting Chair Aguiar also took the opportunity on behalf of the board to thank Acting Chief ALJ Bill Roehr for taking the reigns as Acting Chief ALJ.

Acting Chair Aguiar also commented that the Agency is currently engaged in a full blown recruitment process for a permanent appointment to the Chief ALJ position.

**5. Board Member Reports:**

Member Richardson thanked Acting Chief ALJ Bill Roehr for his service.

Member Figueroa reported that she continues to receive calls from the judges and staff regarding the low morale throughout the Agency. She stated that she is receiving calls from the public with concern as well.

Member Montañez also thanked Acting Chief ALJ Roehr for his service and commented that the Agency is going through many changes. She welcomed ALJ Steve Tyler and wished him the best in his transition. Member Montañez expressed her encouragement to all to apply for the permanent Chief ALJ position.

**6. Acting Chief Administrative Law Judge/Chief Executive Report:**

Chief ALJ/Chief Executive Bill Roehr presented the Field Operations workload report (Attachments A & B). Acting Chief ALJ Roehr stated that the open balance of cases at the end of August was 52,017 for all programs, an all time high. For the UI program the ending balance at the end of August was 42,598. Verifications exceeded dispositions by approximately 5,000 cases in August. There are several factors contributing to these high numbers, including the high rate of unemployment in California, at 7.3 % the highest in 12 years; an increasing number of extended unemployment insurance appeals, from 233 in July to 1,774 in August; the failure to obtain an exemption from the Governor's Executive Order for temporary staff, such as the permanent intermittents, retired annuitants, and students. This is reflected in the unverified appeals numbers, which increased from 6,514 in July to 9,587 in August, an increase of approximately 3,000 or 47%. Another way to reflect the impact of the failure to obtain an exemption for the temporary workers was the increase in untyped decisions. At the end of July the average per month of untyped decisions was 1,601 decisions, and at the end of August that number was 4,591 decisions. That reflects typists who have been cross-trained, performing other functions to make up for staff that was laid off.

Acting Chief ALJ Roehr reported that there were 21,783 dispositions, the lowest for the year and 17% below the average for the year. The number of UI verifications was 24,902, virtually the same as July, due to the growing number of unverified appeals. Dispositions in UI stood at 19,930 at the end of the month, 18% below the average for 2008. Dispositions in UI did exceed verifications but this was because we were low on verifications because staff was being diverted to other functions.

Acting Chief ALJ Roehr reported average case age for August was 37 days, a one day increase from July, and 7 days over the DOL performance standard of 30. Time lapse in Field Operations was 5% at 30 days, 20% at 45 days, and 92% at 90 days, compared to the DOL performance standard of 60%, 80%, and 95%, respectively.

Finally, Acting Chief ALJ Roehr stated that he had a letter (Attachment C) addressed to him from the Presiding ALJs, 15 in total, including all 12 of the PALJs that represent the 12 regional offices. He was asked to convey their concerns to the Board.

Acting Chair Aguiar indicated that all Members of the Board have received the letter in question.

Acting Chair Aguiar asked Chief Counsel Hilton if the letter was a closed session item. Chief Counsel Hilton stated it was not a closed session item, but that it was up to the Chair and the Board as to how they wanted to handle its presentation.

Acting Chair Aguiar stated that Acting Chief ALJ Roehr need not read the letter

aloud as all Members have a copy of the letter. He stated that the letter would be made a part of the record.

Acting Chief ALJ Roehr stated in summary that the letter expressed a complete lack of confidence in the credibility and the ability of the Acting Executive Director to perform the functions of that position, that these are the front line supervisors responsible for managing the regional offices, the people the Agency needs to have working with them to accomplish the objectives of the organization and the Agency. He stated he takes the matter very seriously and he was sure the Board will also.

**7. Acting Executive Director/Special Assistant, Communications and Internal Affairs Report:**

Acting Executive Director Jehan Flagg reported that the Agency received word from the Labor Agency that the exemption request under the Governor's Executive Order was granted for overtime, new hires, promotions and contracts.

Acting Chair Aguiar asked if the Agency now had a total exemption from the Executive Order and if not, from what was the Agency not exempt.

Acting Executive Director Flagg responded the Agency was exempt from almost everything, that with this last exemption the Agency asked specifically for certain hires, promotions and contracts.

Acting Chair Aguiar asked what the previous exemption covered.

Deputy Director, Administrative Services Branch, Pam Boston responded that the previous exemption was to bring back the Agency's retired annuitants, student assistants, youth aides, seasonal clerks and permanent intermittent staff.

Acting Executive Director Flagg clarified that the first exemption was for just the retired annuitant ALJs.

Member Figueroa asked if this included the ALJ IIs waiting for promotions. Acting Chair Aguiar responded yes, and that that was part of the budget.

Acting Executive Director Flagg reported that tomorrow there is a meeting with Bargaining Unit 2, and that Cindy Abercrombie will be representing the Agency. She stated that this was the working group, not the full labor negotiations team.

Acting Executive Director Flagg lastly reported that there will be held on Wednesday the very first of a series of telephone conference calls with US DOL and EDD. She stated that this came out of the presentation that DOL gave to the Board in January, wherein Dale Ziegler came out from Washington D.C. and updated the Board on California's performance. DOL suggested that it work with CUIAB and EDD to determine what issues the Agency has internally, to try and

reduce backlog, and also to make some changes institutionally and structurally, so that the Agency can eliminate the backlog long term and not just in the short term. She stated she has asked Acting Chief ALJ Roehr, ALJ II Steve Tyler and Acting Deputy Chief Jorge Carrillo to participate in the conference call.

Member Richardson stated that she would like to participate in the conference call because she has been tracking these issues.

## **8. Branch Report:**

a. Acting Deputy Chief Administrative Law Judge, Appellate Operations, Jorge Carrillo reported that for the month of August 2008, Appellate Operations registered 1,266 cases, 14 percent below the calendar year average. This drop was expected due to AO losing 9 temporary help support staff. As a result, at the end of August, AO had a large number of cases that had not been verified or registered.

The number of dispositions dropped to 1,217 cases, 13 percent below the calendar year average of 1,397 cases. There were several causes for this number: One ALJ was taken out of production to fill in as Acting Chief of AO; another ALJ was on disability for the month; AO judges conducted 160 hours of hearings for Field Operations in August; and August is a time many staff take vacations. Because registrations outpaced the number of dispositions, the balance of open cases rose to 2157 cases, 9 percent above the calendar year average of 1,970 cases.

Case aging performance was at 38 days, slightly above the calendar year average of 36 days but still below the DOL expectation of 40 days. AO closed 16 percent of its cases within 45 days, below the calendar year average of 27 percent. This decrease was undoubtedly the result of a loss of temporary help as well as ALJs on loan to FO and taking time off. The good news is that AO still met the two other DOL time lapse requirements by closing 91 percent of the cases within 75 days, and 99 percent within 150 days of the appeal date.

b. Deputy Director, Administrative Services Branch, Pam Boston reported that the Sherman Oaks facility will be closing September 11, the Fountain Valley facility closed September 4, and the Gilroy hearing facility is closing September 19.

Deputy Director Boston reported that the examination bulletin for the Chief ALJ position has been issued, with a final filing date of October 6. The bulletin has been posted on the State Personnel Board website and mailed to all State agencies, as well being advertised in the Capitol Morning Report.

Deputy Director Boston reported on the Annual Workforce Analysis. Each year departments are required to conduct an annual workforce analysis to determine if there is any underutilization compared to the composition of the State's workforce, per the 2000 occupational labor force census information. There were a few minor variables where the Agency was underutilized. For example, for the Los Angeles,

Riverside, and Orange County areas typists were underutilized in the categories of Whites and Asians, and in the San Francisco, Oakland, and San Jose areas it was Whites and women. Statewide for ALJs the CUIAB is underutilized in the categories of Whites and men. Deputy Director Boston stated that a memo will be sent to all hiring supervisors informing them of CUIAB's underutilization and asking that they keep them in mind during the selection process.

Acting Chair Aguiar asked if now that the Agency has the exemption from the Executive Order on the new hires, how soon and fast the hiring can be done.

Deputy Director Boston responded that there is an open ALJ I list exam that was established in 2006 with about 150 people on it, and that list will be used for recruiting new hires, on which they will move forward since the CUIAB got its exemption.

Deputy Director Boston reported that the open enrollment period for health benefits is September 15 through October 10, and that a memo has been sent out to all staff.

Deputy Director Boston reported under the second exemption request approval, regarding retired annuitants, permanent interments and student assistants, the CUIAB was able to call back 51 employees. Two permanent intermittent staff found other jobs during their time of furlough, and two student assistants decided not to come back.

Member Figueroa stated that, regarding the closing of the offices, she did not remember the board discussing the matter issue.

Chief Counsel Hilton responded that that under Appeals Board Policy #19, authority for closure of satellite offices, as distinguished from one of the 12 main Offices of Appeal, was delegated to the Chair.

Acting Chair Aguiar stated that that those decisions were made under the prior Chair and that the reason for the closures was budgetary. He stated that at the last board meeting the budget presentation included the \$324,051 savings based on the closure of those offices and \$227,000 for additional offices. After further discussion the closure of additional offices was removed from the budget.

c. Acting Deputy Director, Planning and Program Management Branch, Renee Erwin reported that Martha Silva, the bi-lingual language coordinator, has finalized the two-week language survey for CUIAB. There were over 24,189 contacts during that two-week period. All the data was compiled and the results which were submitted to the Acting Executive Director and on to SPB reveal zero deficiencies.

Deputy Director Erwin reported that each year the Department of Finance requires State Departments to submit their anticipated equipment and contract needs for the next budget year. This is commonly referred to as the Schedule 9 (Attachment

D), which is a list of all equipment that has a unit cost over \$5,000, in addition to all contracts that are anticipated in the next budget year. This schedule is submitted to Department of Finance so that DOF can build the Governor's budget for the next fiscal year and announced January 10. CUIAB identified approximately \$438,000 in equipment needs and \$242,000 in contract needs for a total \$680,000. The list includes 17 copiers, IT equipment, contracts needed for day-to-day business with the State Controller, State Personnel Board, Department of Technology Services, and California Highway Patrol.

**9. Chief Counsel's Report:**

Chief Counsel Ralph Hilton reported that there are currently 173 cases. Last month five cases were closed, all of which affirmed the Board, and three new cases were filed, two of which were tax cases.

In response to an inquiry from Member Figueroa, Chief Counsel Hilton advised that each Board Member is advised by memorandum when any new case is filed which involves a decision in which the Board Member participated.

**10. Unfinished & New Business:**

Item: 2008/09 Budget: Acting Chair Aguiar thanked Acting Deputy Director Renee, P&PM Renee Erwin for putting this information together in this and the last meeting, as he knows that she is also dealing with other issues.

Acting Deputy Director Erwin gave the Budget Report via PowerPoint presentation. (Attachment E).

Acting Deputy Director Erwin addressed a question which arose at the prior Board meeting regarding the \$74,000 General Fund reduction, explaining that the 10% reduction is based on last fiscal year's expenditures estimated at \$530,000, 10% of which is \$53,000, plus an amount for benefit charges, bringing the total to \$74,310.

Acting Deputy Director Erwin went on to state that with the 13-week extended unemployment compensation benefit, we estimated an additional 11,250 cases and \$2.5M in revenues, but based on our experience in the month of August, those projections may be low. We have budgeted for 9 ALJs to handle this additional workload, with a net revenue of approximately \$1.2M.

Acting Deputy Director Erwin added that they have proposed to continue the increased caseload that was effective in January 2008, as well as the requirement that the 14 PJs continue hearing cases one day a week.

They also recommend a soft freeze for Field and Appellate Operations of two months once the position is vacated, and four months for the Operational Branches (Admin Services, IT, P&PM, and Executive Office) to generate a salary savings of about \$366,000. However, the proposal includes language for an exemption to be

granted for vacated positions which have a lump sum cash out, not to be filled until those dollars are recouped during the period of vacancy. The BAC Committee proposes that the Branch Managers ensure that CTO that is accrued over the year be utilized so that we can avoid having to cash out when they reach the maximum of 240 hours.

Acting Deputy Director Erwin reported that there are seven proposed staff promotions for \$15,855 salary cost, and 20 proposed ALJ II promotions, 10 effective October and another 10 effective January, for a total cost of \$73,000.

Member Figueroa requested clarification why the difference of 6 months.

Acting Chair Aguiar responded that what they did was they went into a process of analyzing and talking to PJs and found out that some on the list were not quite ready to be promoted. Based on the discussion with the PJs and based on the review of each personnel file, they came to the conclusion that the top 2 tiers were ready to go, and perhaps the next 10 would be ready earlier than January, which will be decided in November or December.

Member Figueroa stated that her concern is if we can get more of them to be ready to produce cases.

Acting Chief ALJ Roehr added that there would be more flexibility with the 27 in the budget item.

Acting Chair Aguiar stated that there were some who were not interested in being promoted.

Member Figueroa stated that if we put it into the budget then it does not mean we have to hire them. It makes it easier for staff so they don't have to come again to us for approval.

Acting Chair Aguiar replied that when the Board requested more detailed information, that is when he and Acting Chief ALJ Roehr started talking to PJs and found that some ALJs were not ready for promotion. He looked at the top 2 tiers of 8 ranks and the top 2 ranks, who scored 88% or higher, as well as their personnel files, it was very clear that these people are ready to be promoted. The PJs said they were ready and wanted to be promoted. So he recommended the top 2 tiers which is 10 ALJs, then went to the next ranks. The bottom rank is 7 or 8. They have put 10 more for a total of 20 and that was the recommendation.

Acting Deputy Director Erwin discussed office expenses and savings, including \$80,000 for the temporary relocation cost for the San Jose Office, along with the potential savings (\$227,000) for office closures of another five outstations.

Member Richardson suggested taking the latter item out of the budget.

Acting Chair Aguiar agreed that this item should be added to the budget and the offices will not be closed.

Regarding the San Jose Office of Appeals, Pat Houston, Staff Services Manager II, reported that she met with DGS Real Estate Services Division to review the two proposals. The proposal for the Manchester building is over our budget. The other location is within our budget, and also has a temporary space for us to relocate to so we can reduce our move cost.

Member Richardson asked about the duration of the lease, and Ms. Houston advised that it is a 12-year lease.

Acting Deputy Director Erwin reported that our bottom line base budget is \$78,520,276 (Attachment F). We have built into this contingency reserves of \$1.6M. In addition each of the branches is required to identify 10% of their OE&E Call Letter to place in reserve for additional savings. A potential cost item is cost-of-living adjustments if negotiated, estimated at 4% or \$3 million. There is the possibility of additional income if DOL funds the over base at more than 32%, which we should find out in January 2009. We have a total of 641.75 positions being funded at \$44.3M, with benefit costs of \$17.8M. Our operating expenses and equipment budget is \$4.6M. On our handouts, there is a little typo, we don't have 6,000 positions; we have 600 positions. This is the status of the budget presented for Board's approval: available funds of \$78.5M and planned expenditures of \$76.8M, with a reserve of \$1.6M. Acting Deputy Director Erwin stated she will be presenting a workload reduction plan at the October Board meeting.

Acting Chair Aguiar stated that what he wants is a plan that outlines how many people we need to hire, whether they are the judges or support staff, and what the cost is to do that. If the plan is ready sooner, Acting Chair Aguiar stated he might call a special Board meeting because he really wants to get this plan in place.

Member Figueroa stated that we also have to consider the conversation with DOL and EDD as they may have some expectations and concerns. We should allow some flexibility in making sure we do not necessarily forecast or anticipate that some similar budgets are going to be agreed upon next year; try to have the wisdom so that our staff does not have to go through what they are going through right now again. Member Figueroa added that she wants to make sure that we treat our staff with dignity and security.

Member Richardson questioned with respect to the proposed branch allocations, if this number includes our retired annuitants, permanent intermittent, and student assistants.



Acting Deputy Director Erwin responded that those positions would include the Retired ALJs in addition to all of the temporary help staff and the permanent staff, which is the 641.75.

**11. Public Comment:**

There was no public comment.

**12. Closed Session:**

The Board went into closed session. No votes were reported.

**Adjournment**

# FIELD OPERATIONS WORKLOAD REPORT

		<u>August 2008</u>	
	Verifications	Dispositions	Balance
UI	24,902	19,930	42,598
DI	1,333	1,385	2,692
Tax	171	139	3,026
Ruling & T-R	569	307	3,567
Subtotal	26,975	21,761	51,883
Other	52	22	134
<b>Total</b>	<b>27,027</b>	<b>21,783</b>	<b>52,017</b>

		<u>June 2008 ~ August 2008</u>	
	Verifications	Dispositions	Balance (Avg)
UI	73,898	68,832	39,191
DI	4,488	4,706	2,721
Tax	651	458	2,951
Ruling & T-R	1,267	1,046	3,377
Subtotal	79,037	73,996	44,862
Other	124	106	101
<b>Total</b>	<b>79,161</b>	<b>74,102</b>	<b>44,963</b>

		<u>Calendar Year: January 2008 ~ August 2008</u>	
	Verifications	Dispositions	Balance (Avg)
UI	198,124	194,631	39,296
DI	12,521	12,520	2,780
Tax	1,691	1,296	2,931
Ruling & T-R	2,993	2,228	3,117
Subtotal	215,329	210,675	48,124
Other	416	367	86
<b>Total</b>	<b>215,745</b>	<b>211,042</b>	<b>48,210</b>

# FIELD OPERATIONS WORKLOAD REPORT AUGUST 2007 THROUGH AUGUST 2008

	2007												2008		CHANGE		
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Average	Curr Mo to Prev Mo	Curr Mo to Avg	Curr Mo to Prev Yr
UI																	
Registrations	22,926	20,655	24,172	21,126	19,974	24,049	20,982	25,443	28,984	24,768	24,092	24,904	24,902	23,614	-2 0%	1,288 5%	1,976 9%
Dispositions	21,088	18,509	23,147	19,205	19,727	21,005	22,903	29,555	25,899	26,437	24,463	24,439	19,930	22,793	-4,509 -18%	-2,863 -13%	-1,158 -5%
Open Cases	34,575	36,645	37,554	39,427	39,618	42,602	40,635	36,437	39,418	37,706	37,291	37,694	42,598	38,631	4,904 13%	3,967 10%	8,023 23%

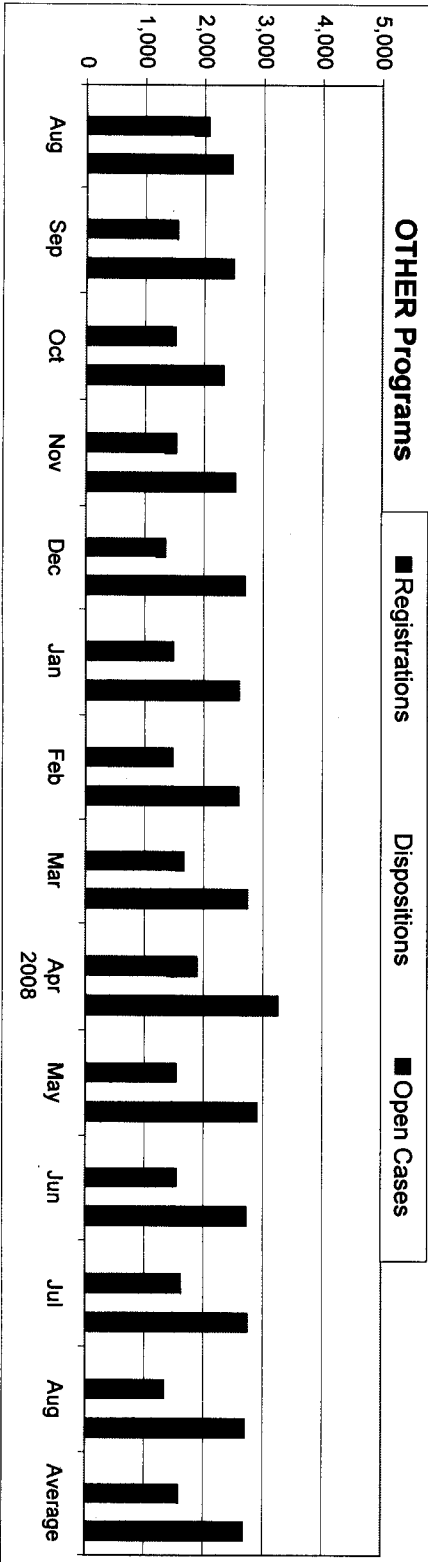
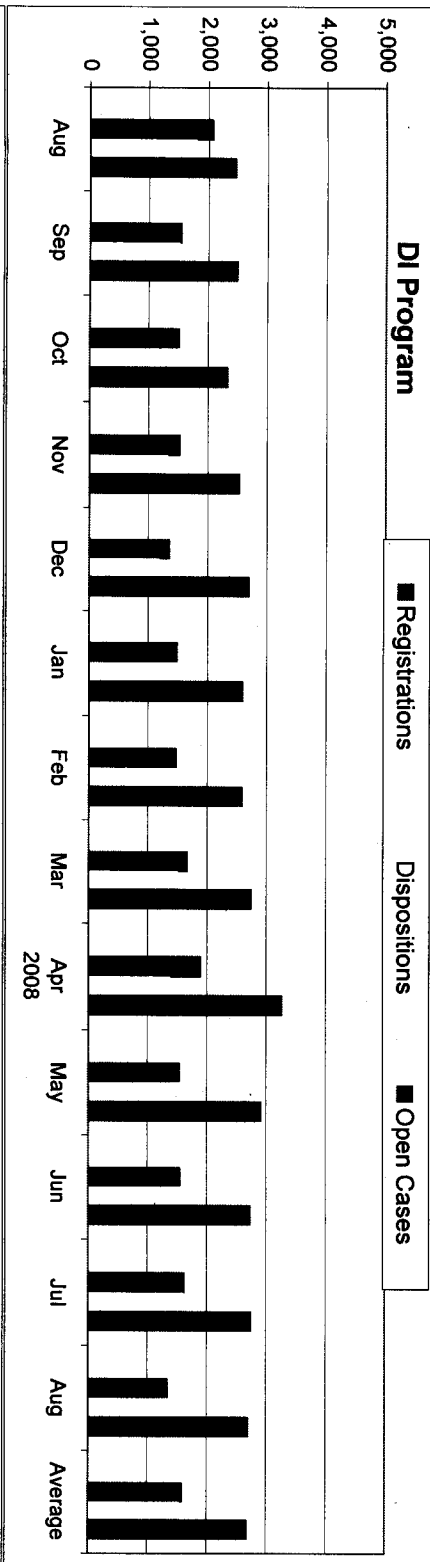
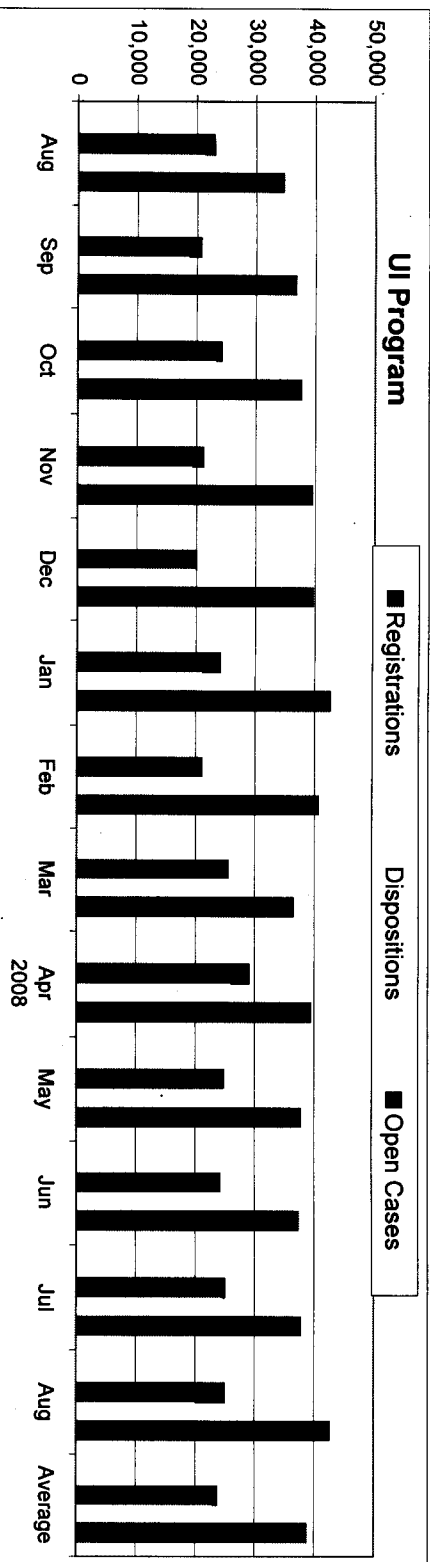
TIME LAPSE																	
30 Days (60%)	5	4	4	5	4	3	3	4	8	8	7	6	5	<b>5</b>	-1 -17%	0 -2%	0 0%
45 Days (80%)	19	16	13	14	11	9	11	18	26	26	26	20	20	<b>18</b>	0 0%	2 14%	1 5%
90 Days (95%)	95	91	89	89	87	79	77	81	93	96	95	94	92	<b>89</b>	-2 -2%	3 3%	-3 -3%

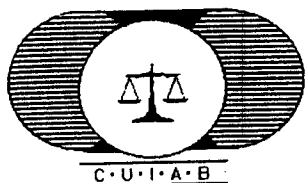
UI CASE AGE																	
30 Days Avg.	35	39	37	39	43	44	43	35	34	34	35	35	37	<b>38</b>	2 6%	-1 -2%	2 6%

# FIELD OPERATIONS WORKLOAD REPORT JULY 2007 THROUGH JULY 2008

	2007												2008		CHANGE		
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Average	Curr Mo to Prev Mo	Curr Mo to Avg	Curr Mo to Prev Yr
<b>DI</b>																	
Registrations	2,065	1,536	1,504	1,522	1,347	1,481	1,470	1,661	1,887	1,534	1,540	1615	1333	<b>1,577</b>	-282 -17%	-244 -15%	-732 -35%
Dispositions	1,799	1,505	1,661	1,320	1,179	1,579	1,477	1,506	1,368	1,884	1,720	1601	1385	<b>1,537</b>	-216 -13%	-152 -10%	-414 -23%
Open Cases	2,455	2,486	2,325	2,527	2,693	2,590	2,586	2,738	3,257	2,907	2,728	2742	2692	<b>2,671</b>	-50 -2%	21 1%	237 10%

<b>OTHER</b>																	
Registrations	547	810	590	238	279	322	480	408	641	713	567	715	792	<b>546</b>	77 11%	246 45%	245 45%
Dispositions	381	453	281	336	204	378	559	316	267	761	542	600	468	<b>427</b>	-132 -22%	41 10%	87 23%
Open Cases	5,490	5,260	5,253	5,238	5,513	5,543	5,630	5,910	6,310	6,263	6,289	6405	6727	<b>5,833</b>	322 5%	894 15%	1,237 23%





**STATE OF CALIFORNIA - ARNOLD SCHWARZENEGGER**  
**LABOR AND WORKFORCE DEVELOPMENT AGENCY**

**CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD**

**2400 Venture Oaks Way  
Sacramento, CA 95833**

September 5, 2008

To: G. William Roehr  
Acting Chief Administrative Law Judge

From: PALJs  
Field Operations

Dear Bill:

In furtherance of our responsibilities as Presiding Administrative Law Judges in field operations of the CUIAB, we wish to express our unanimous position about the agency's failure to promptly obtain a blanket exemption from the Governor's July 31 executive order No. S-09-08. We ask that you convey our concerns about this matter to the Board.

We do not take this action lightly or precipitously. Our concerns do not arise from matters involving personality disputes, issues of management style or even policy disagreements. Rather, we believe that recent actions of the acting executive director and the Board, with the exception of member Figueroa, have significantly and adversely affected the ability of our agency to conduct the important legal work we are required to perform by state and federal law.

We are relieved that after a lengthy and inexcusable delay, an expanded partial exemption from the Governor's order was finally obtained on August 29. However, the one month prior delay has caused significant damage and

**Attachment C**

disruption to our field appeal operations. Moreover, the continuing lack of an exemption to hire previously approved personnel, fill necessary positions, and utilize staff overtime to reduce backlogs will continue to hamper our ability to recover from the damage that has already been done.

Since July our inventory of UI cases awaiting hearing has risen sharply and is now back to where it was when we instituted our statewide workload reduction plan last January. This loss of progress is directly attributable to the failure to promptly obtain an exemption for our affected support staff, i.e. permanent intermittent and retired annuitant staff, student assistants and youth aides. Approximately 50 full time position equivalents were lost agency wide on account of this failure, which is equal to about 22% of our field support staff. Several appeals offices lost large numbers of personnel, and Hub and appeals office decision typists were particularly hard hit. At least 18 laid off staff have been unable or unwilling to return to work, and their positions will now have to be refilled at additional agency expense and training downtime.

We have reallocated work and staff and have obtained assistance from PPM personnel. Nonetheless, without the exemptions large backlogs in appeal verifications and decision typing have accrued. We have been forced to reduce mass calendars because we lacked the extra staff necessary to prepare them. Meanwhile, our UI inventory, which stood at 37,000 in June, is now at 43,000 and case aging has deteriorated.

None of this had to happen. As you know, EDD invited CUIAB to a meeting on June 26 which former Board chair Rick Rice and now acting executive director Jehan Flagg attended. As it has in the past, EDD invited us to join them in requesting a blanket exemption from the Governor's order. In years past EDD and CUIAB, as federally funded agencies, have routinely been granted exemptions under similar budget circumstances. For reasons unknown to us, the invitation was declined and the EDD request was submitted without our participation. As would be expected, a blanket exemption was promptly approved for EDD's entire staff. The exemption also authorized paid overtime for its personnel in order to meet workload needs.

The failure to participate in this joint request is particularly worrisome in that our workload was up 16% over the previous year and was about to increase

even more with the enactment of the federal EUC program. It also raises serious questions about the proper use and management of federal funds, including those earmarked for the EUC program. Moreover it does a disservice to the state's employer community who initially fund the system, and to the unemployed and disabled.

At a teleconference between acting executive director Jehan Flagg and the PALJs, conducted on August 19, Ms. Flagg was unable to explain why we had not participated in the EDD request. She represented that she had presented (following repeated entreaties from the field to do so) an exemption request that had been drafted by PALJ Hugh Harrison; but that the request had been denied. She stated the request was submitted to "LWDA", but was unwilling or unable to say to whom at that agency it had been submitted, or whether it had ever been forwarded to the Department of Finance or any other entity. Initially she said she did not know why our request had been denied while the EDD's had been approved. She then said that the Social Security Act distinguishes EDD from CUIAB. That is simply not true.

During the conference call Ms. Flagg displayed a complete lack of knowledge of CUIAB structure and operations. She did not know that DOL has always supported our exemption requests because they want us to spend the federal dollars they make available to us to eliminate our workload. She was unaware that DOL views EDD and CUIAB as a single entity for budget purposes and provides but one grant to California. She had not the slightest idea of the amount of the CUIAB's annual budget. She had no clear idea of how many of our employees had been laid off because of the lack of an exemption, or of verifications and decision typing. She represented that she would re-submit the request with additional data, but had no idea what information was needed or what had been supplied previously.

Moreover, we believe Ms. Flagg has demonstrated that her priorities are badly skewed. During this severe economic downturn she failed to adequately pursue and obtain an exemption for employees who serve the unemployed and disabled. Yet, she was successful in obtaining exemptions to contract with movers to move furniture and equipment out of our field hearing facilities on Wilshire Boulevard, in Sherman Oaks and in Fountain Valley. These facilities are being closed despite no present fiscal need for doing so. Their closure



means that parties will have to travel greater distances to attend delayed hearings. The decision to close these facilities was made without input from the PALJs of the affected offices of appeal, and without timely notice to those offices.

The belated and limited exemption Ms. Flagg obtained before August 29 for retired annuitant ALJs was confused, unnecessarily complex and inefficient. The month-to-month exemption, applicable only to specific calendar dates within each month was operationally impractical. The exemption for September was received too late to calendar judges for the first week of that month. Those retired judges who did not work in August were, inexplicably, separated from state service. They, as our laid off support staff, now have to be reinstated at additional time and expense.

Ms. Flagg's training and experience is in public relations. She lacks relevant legal training, agency knowledge and management experience. For these and the reasons discussed above, we have no confidence in the ability of Ms. Flagg to competently and adequately handle the duties and responsibilities she has assumed.

Today, as a result of the multi week delay in obtaining the exemption, all of the progress we made from January through June has been lost. The time, effort and sacrifice that went into the many dozens of mass calendars we conducted throughout the state have been for naught. The workload goals and appeal processing representations we made to DOL, the labor agency and the California Rural Legal Assistance (CRLA) will go unrealized.

As these events have occurred on this Board's watch, we know the Board and the acting executive director are already aware of much of what this letter addresses. Workload and staffing briefings are provided at the monthly Board meetings. More recently, PALJ Harrison's workload reports have been issued weekly and regular reports from the Chief ALJ also are submitted. However, we wish to bring this matter to your attention, and the attention of the Board, so that there is no confusion or misunderstanding about what has occurred, what has failed to occur, the damage that has resulted and where the responsibility lies.

The Presiding Administrative Law Judges for CUIAB Field Operations listed below have reviewed, unanimously approved and herewith submit this letter.

Hazel Cash; Kirk Garvin; Marcus Gunkel; Zaida Hackett; Hugh Harrison; Mike Price; Ron Kammann; Julie Krebs; Gil Knipe; John Martin; Tim McArdle; Jasmine Mukai; Cindi Rosse; Harold Rucker; Irene Server

cc: Acting Chair

Board Members

**EMPLOYMENT DEVELOPMENT DEPARTMENT**  
**STATE FISCAL YEAR 2009/2010**  
**SCHEDULE 9**

**BRANCH:**  
 California Unemployment Insurance  
 Appeals Board

**SUPPLEMENTARY SCHEDULE OF EQUIPMENT**

<b>EXPENSE CODE 660 - NON-DATA PROCESSING EQUIPMENT PURCHASES - CAPITALIZED</b>			<b>PROPOSED EXPENDITURES, BUDGET YEAR</b>	
<b>DESCRIPTION</b>	<b>BRANCH PRIORITY #</b>	<b>QTY</b>	<b>NEW TOTAL COST</b>	<b>REPLACEMENT QTY   TOTAL COST</b>
Copiers, 55 PagesPerMinute (PPM) (Useful Life expires)	3			11    \$132,000
		333		
				FO
				SD, ING, OAK (11)
Copiers, 55 PPM (Useful Life expires)	4			2    \$24,000
		300		
				AO
Copiers, 55 PPM (Useful Life expires)	5			2    \$31,000
		375		
				P&PM
Copiers, 55 PPM (Useful Life expires)	6			1    \$12,000
		306		
				Admin
Copiers, 55 PPM (Useful Life expires)	7			1    \$12,000
		319		
				IT
<b>TOTAL EXPENSE CODE #660</b>			<b>0</b>	<b>17    \$211,000</b>

Jehan Flagg  
 Acting Executive Director

Date

**TOTAL EXPENSE CODE #660**

**Attachment 9**

**ANCH:**  
California Unemployment Insurance  
Appeals Board

EXPENSE CODE 665 - DATA PROCESSING EQUIPMENT PURCHASES - CAPITALIZED

DESCRIPTION	BRANCH PRIORITY #	NEW		REPLACEMENT	
		QTY	TOTAL COST	QTY	TOTAL COST
Field Office WAN Router (5 yr Expiration Of Life)	1			12	\$108,000
HQ Core Switch (5 yr Expiration Of Life)	2			1	\$119,000
<div> <div>Jehan Flagg</div> <div>Acting Executive Director</div> </div>		<div> <div>Date</div> <div>TOTAL EXPENSE CODE #665</div> </div>		<div> <div>0</div> <div>\$0</div> </div> <div> <div>13</div> <div>\$227,000</div> </div>	

**EMPLOYMENT DEVELOPMENT DEPARTMENT**  
**STATE FISCAL YEAR 2009/2010**  
**SCHEDULE OF CONTRACTS**

**BRANCH:**  
 California Unemployment Insurance  
 Appeals Board

**EXPENSE CODE 832 - INTERDEPARTMENTAL CONSULTING & PROFESSIONAL SERVICES CONTRACTS**

CONTRACTOR	PURPOSE	TERM		AMOUNT
		FROM	TO	
State Controller's Office	California Leave Accounting System (CLAS)	7/1/2009	6/30/2010	\$ 4,100
State Controller's Office	Management Information Retrieval System (MIRS)	7/1/2009	6/30/2010	\$4,800
State Personnel Board	Online Services	7/1/2009	6/30/2010	\$7,200
Dept. of Technology Services	Online Services	7/1/2009	6/30/2010	\$7,200
California Highway Patrol	Police Protective Services - Security Standby	7/1/2009	6/30/2010	\$15,000
Personnel Information Exchange (PIE)	SPB & DPA on-line resources for personnel data	7/1/2009	6/30/2010	\$3,105
Dept. of Personnel Administration (DPA)	DPA services for legal, labor relations & miscellaneous consultation	7/1/2009	6/30/2010	\$ 40,250
State Personnel Board (SPB)	SPB Legal Services & Hearing Charges	7/1/2009	6/30/2010	\$46,000
State Controller's Office (SCO)	Retroactivity Reports Personnel Payroll Transaction	7/1/2009	6/30/2010	\$2,875
State Controller's Office (SCO)	Position Reports & W-2 Direct Mailings			\$2,415
TOTAL FOR INTERDEPARTMENTAL CONTRACTS				\$ 132,945

Jehan Flagg  
 Acting Executive Director

Date

**EMPLOYMENT DEVELOPMENT DEPARTMENT  
STATE FISCAL YEAR 2009/2010  
SCHEDULE OF CONTRACTS**

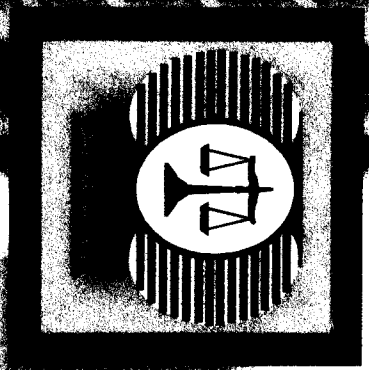
**BRANCH:**  
California Unemployment Insurance  
Appeals Board

**EXPENSE CODE 833 - EXTERNAL CONSULTING & PROFESSIONAL SERVICES CONTRACTS**

CONTRACTOR	PURPOSE	TERM		AMOUNT
		FROM	TO	
Cintas Document Management	Confidential Destruction Services - San Jose, SF, Oakland	7/1/2009	6/30/2010	\$ 5,000
Cintas Document Management	Confidential Destruction Services - Sacramento, Fresno	7/1/2009	6/30/2010	\$ 6,500
All Purpose Document Destruction	Confidential Destruction - Inglewood, Inland, LA, Orange Co, Pasadena, San Diego	7/1/2009	6/30/2010	\$ 8,500
LexisNexis	Electronic Library Services	7/1/2009	6/30/2010	\$ 34,000
CTS LanguageLink	Telephonic Interpreter Services	7/1/2009	6/30/2010	\$ 50,000
Recall	Off-Site Data Storage & Transportation	7/1/2009	6/30/2010	\$ 5,300
<b>TOTAL FOR EXTERNAL CONTRACTS</b>				<b>\$ 109,300</b>

Date

Jehan Flagg  
Acting Executive Director



**CUIAB**

**State Fiscal Year  
2008-09  
Budget**

**California Unemployment Insurance Appeals Board**

**September 9, 2008 Board Meeting**

**2008-09 May Revise**

## **Disability Insurance Program**

- ◆ The DI program projects a workload decrease of 884 cases to 19,208 cases and a reduction of \$243,474 (per EDD)



## **Revised 2008-09 May Revise**

# **Personal Income Tax Program**

- ✦ Because of a General Fund deficit the Administration mandated a 10% reduction to all state entities.
- ✦ For CUIAB that amount is \$74,310
  - ✦ \$530,000 allocation x 10% = \$53,000
  - ✦ Benefits = \$21,310

# **Revised Unemployment Insurance Program 13 Week Extended Unemployment Compensation Benefits**

✦CUIAB projects an estimated increase of:

• **11,250 cases = revenue \$2.5 million**

✦The following new hires are proposed, to process the increased workload:

- 9 ALJ Is and 9 Staff
- **Salary & benefit annual expense (\$1.3 million)**

**Net revenue**

**\$1.2 million**

**Revised  
Budget Advisory Committee**

**Proposed Ongoing Revenues  
\$3,122,399**

- ✦ 13 ALJ I hires – earnings from July 2008 through June 2009
  - **22,485 cases = revenue \$2,018,573**
- ✦ Continue current ALJ caseload with 2 additional appellants per week January 2009 through June 2009
  - **11,193 cases = revenue \$794,199**
- ✦ Continue current 14 PALJs July 2008 through June 2009 (1 day per week/26 cases)
  - **4,363 cases = revenue \$309,627**

**Revised  
Budget Advisory Committee**

**Proposed Personnel Savings**

- |   |                  |
|---|------------------|
| <b>1. Soft freeze</b>   | <b>\$366,186</b> |
| a. Field and Appellate Branches - 2 months  |                  |
| b. Admin, IT, PPM, Executive Branches – 4 months  |                  |
| c. Exception may be granted by the Board Chair  |                  |
| d. Vacated positions are to remain frozen until the<br>leave time or lump-sum cash out is exhausted |                  |
| <b>2. Board Member Vacancy – 18 months</b>  | <b>\$271,251</b> |
| <b>3. Executive Director</b>  | <b>vacancy</b>   |

**Revised  
Budget Advisory Committee**

**Proposed Promotions and  
Salary Increases**

✦ **7 Staff Promotions      \$ 15,855**

✦ **20 ALJ II Promotions    \$ 73,050**  
10 ALJ II for 9 months      \$43,830  
10 ALJ II for 6 months      \$29,220

**New  
Budget Advisory Committee**

**Proposed Temporary Help  
Allocations for Overtime**

✦ Administrative Services	\$ 18,820
✦ Information Technology	\$ 49,500
✦ Appellate Operations	\$ 3,881
✦ Planning & Program Mgmt.	\$ 16,023
✦ <u>Field Operations</u>	<u>\$165,601</u>
✦ Total	\$253,825

## Budget Advisory Committee

# Proposed Operating Expenses & Equipment Adjustments

### Reductions:

### Savings

- Polycom annual maintenance and licensing discontinued (\$ 29,817)
- Training (all divisions except IT) 6% (\$ 6,185)
- Supplies 20% (\$ 65,820)
- Interpreters 5% (\$ 102,000)
- Travel 12% (\$ 121,077)

**TOTAL (\$324,899)**

### Increases:

### Increased Cost

- DP Equipment Rent/Maint. 55% \$ 365,620
- Postage increase \$ 229,020
- Bureau of State Audit 100% \$ 200,000
- Memberships/State Bar/Misc. 93% \$ 79,800
- Training IT \$ 55,030

**TOTAL \$ 929,470**

## Budget Advisory Committee

# Proposed Facility Consolidations

### 1. Outstation Closures

a. West Covina	12 mo.	\$ 72,000
b. Fountain Valley	9 mo.	\$ 51,673
c. Wilshire-Hollywood	9 mo.	\$ 78,480
d. Gilroy	9 mo.	\$ 7,417
e. Sherman Oaks	9 mo.	\$114,481
<b>TOTAL</b>		<b>\$324,051</b>

### 2. Relocation of Headquarters

a. San Jose Regional Office temporary relocation	<b>\$ 80,000</b>
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<b>2008-09 Budget Recap</b>	<b>Revised</b>	<b>Positions</b>	<b>Dollars</b>
<b>07-08 BASE BUDGET 4-08</b>		855.9	80,307,319
<b>May 08 Revise</b>			
UI Federal Reduction Overbase		-44.8	-4,756,562
274,600 UI cases reduced by 1,400 cases		-56.1	-5,956,416
1 Decision Day per Quarter			-571,267
Disability Insurance 19,208 DI cases		-2.3	-243,474
General Fund 10% Cut		-1.0	-74,310
2008-09 UI Restoration		158.0	17,589,000
3 Qtrs. Overbase @ 32% Reserve		-134.4	-11,887,971
UI Extension Program (13 weeks)			2,494,544
Planned Increased Revenues			3,199,641
Hemet Outstation TIs-Federal \$ Restored			121,731
Paid Family Leave unearned		-14.9	-1,711,499
<b>2008-09 BASE BUDGET</b>		<b>626.0</b>	<b>78,520,276</b>

## **Revised**

### **Budget Advisory Committee**

## **Contingency Reserves**

- Unallocated 2008-09 available budget  
\$ 1,639,728
- 10% Branch OE&E Call Letter Reserve  
\$ 131,346
- 4% ALJ Cost of Living Adjustment  
pending contract agreements \$ 1,364,120
- 3 Quarters of overbase  
funded @ 32% \$11,887,971  
(pending January, 2009 USDOL notice)

**Revised**  
Budget Advisory Committee

**Proposed Branch Allocations**

<b>2008-09</b>	<b>Positions</b>	<b>Salaries</b>	<b>Benefits</b>	<b>OE&amp;E</b>	<b>TOTAL</b>
<b>Branch Requests</b>					
<b>Administrative Services</b>	33.00	1,857,443	749,293	3,331,771	5,938,507
<b>Information Technology</b>	28.00	1,863,299	751,655	921,351	3,536,305
<b>Appellate Operations</b>	55.00	3,383,928	1,365,077	118,682	4,867,687
<b>Executive Office</b>	19.25	1,891,423	763,000	840,862	3,495,285
<b>Planning &amp; Program Management</b>	26.00	1,399,962	564,745	131,620	2,096,327
<b>Field Operations</b>	480.50	33,945,187	13,693,488	9,307,763	56,946,438
<b>TOTAL</b>	641.75	44,341,242	17,887,257	14,652,049	76,880,548

**Revised**

# **2008-09 Budget Status**

✦ Established Budget	\$78,520,276
✦ <u>Branch Requests</u>	<u>\$76,880,548</u>
✦ Reserve	\$ 1,639,728

**New**

# **UI Inventory Reduction Plan**

- During the October 2008 Board meeting we will present to the Board a UI inventory reduction plan with timelines and cost estimates.
- At that point the first quarter of the 2008-09 fiscal year will have passed and we will have actual expenditures, workload levels and earnings.
- This means we can choose to allocate dollars as necessary to fund and implement the UI inventory reduction plan.

**2008~09 CUIAB BUDGET**  
**PERSONNEL SERVICES / BENEFITS / OE&E**

Revised  
9-5-08/rme

		Positions	DOLLARS			
		Total	Salaries	Benefits	OE&E	TOTAL
May 08 Revise						
Federal Allocation Reduction	OB	-44.8	-2,823,612	-1,014,314	-918,636	-4,756,562
274,600 (-1,400) cases	UI	-56.1	-3,535,875	-1,270,177	-1,150,364	-5,956,416
19,208 ( -884) cases	DI	-2.3	-145,400	-52,074	-46,000	-243,474
General Fund 10% Cut		-1.0	-56,000	-18,310		-74,310
1 DEC Day per Qtr - Annual			-407,059	-164,208		-571,267
Reimbursements Hrg Rms					9,540	9,540
2008-09 UI Restoration		23.6	12,533,134	5,055,866		17,589,000
3 Qtrs Overbase@32% - RESERVE		-134.4	-8,470,836	-3,417,135		-11,887,971
UI Extension Program			1,777,500	717,044		2,494,544
Planned Increased Revenues						3,199,641
Hemet TIs - Federal \$ Restored					121,731	121,731
2008-09 SUB-TOTAL		640.9	47,645,236	19,539,568	9,847,330	80,231,775
Less PFL		-14.9	-1,130,720	-379,293	-201,486	-1,711,499
2008-09 BASE BUDGET YEAR		626.0	46,514,516	19,160,275	9,645,844	78,520,276

PERSONNEL SERVICES / BENEFITS		FY08 Total	PERSONNEL DOLLARS		OE&E REQUEST	TOTAL	
Schedule 75 - 001 (0000)			Budget	Request			
Administrative Services		33.00	1,857,443	749,293	3,331,771	5,938,507	
Information Technology		28.00	1,863,299	751,655	921,351	3,536,305	
Appellate Operations / CTU		55.00	3,383,928	1,365,077	118,682	4,867,687	
Executive Office		19.25	1,891,423	763,000	840,862	3,495,285	
Planning & Program Mgmt.		26.00	1,399,962	564,745	131,620	2,096,327	
Field Operations		480.50	33,945,187	13,693,488	9,307,763	56,946,438	
TOTAL		YEAR	641.75	44,341,242	17,887,257	14,652,049	76,880,548

**\$ 1,639,728**

# ALJ II vs. ALJ I Cost Analysis Cost Comparison

9-5-08/rme

calculations	displayed	based on 30 & 27	25.3 x 1.55 = 39.2 2.6 x 1.55 = 4.0 25.1 x 1.55 = 38.9	52 x 8.8152 = 42.382	39.2 x 42.382 = 1,661 4.0 x 42.382 = 171	1,661 x \$158 = \$262,494 171 x \$50.56 = \$8,669	ALJ II \$124,606  ALJ I \$118,762	\$286,470 - \$115,884 = \$170,587	\$157,451 / \$105,043 = 50%
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<b>ALJ II</b>	30.0	45.3		1,922	\$	286,064	\$	124,606	\$	161,458	130%
				160							
<b>ALJ I</b>	27.0	40.8		1,730	\$	274,037	\$	118,762	\$	155,275	131%
				144							
<b>DIFFERENCE</b>			<b>ANNUAL</b>	192		12,027		5,844		6,183	106%
<b>DIFFERENCE</b>			<b>MONTH</b>	16	\$	1,002	\$	487	\$	515	106%

2008-09 ACTIONS	Earnings	Salary	Decisions	Earnings	Salary	Net Revenue
9 Staff Hires (Oct.)		9 months			\$ 232,983	
9 ALJ I Hires (Oct/Dec)	7 months	9 months	9,081	\$ 1,438,694	\$ 695,993	\$ 742,701
10 ALJ II Promotions (Oct.)	9 months	9 months	1,441	\$ 90,205	\$ 43,830	\$ 46,375
10 ALJ II Promotions (Jan.)	6 months	6 months	961	\$ 60,136	\$ 29,220	\$ 30,916
13 ALJ I Workload (Jul.)	12 months	12 months	22,485	\$ 3,562,479	\$1,543,906	\$2,018,573

## 7 Staff Promotions

**\$15,855**

- 4 Information Technology \$10,281
- 1 Appellate Operations \$ 1,560
- 2 Field Operations \$ 4,014

## 20 ALJ II Promotions

**\$73,050**

- Field Operations
- 10 ALJ II for 9 months \$43,830
- 10 ALJ II for 6 months \$29,220

mid-range